



Federal Communications Commission
Washington, D.C. 20554

July 15, 2003

Via Facsimile

Stephen H. Kay
Executive Vice President and General Counsel
Gemstar-TV Guide International, Inc.
5922 Hollywood Boulevard
12th Floor
Los Angeles, California 90028

Re: Consolidated Application of General Motors Corporation, Hughes Electronics Corporation, and The News Corporation Limited for Authority To Transfer Control (MB Docket No. 03-124)

Dear Mr. Kay:

On May 2, 2003, the Commission received a consolidated application from General Motors Corporation, Hughes Electronics Corporation and The News Corporation to transfer control of various Commission licenses and authorizations held by Hughes and its wholly- or majority-owned subsidiaries.¹ In order for the Commission to review the application and make the necessary public interest findings under section 310(d) of the Communications Act,² we require additional information and clarification of certain matters discussed in the application.

Accordingly, pursuant to section 308(b) of the Act,³ we request that you provide written responses and supporting documentation for the questions set forth in the attached Information and Document Request. You may submit any confidential or proprietary information that is responsive to this request pursuant to the Protective Order adopted in this proceeding.⁴ We would appreciate receiving your response to each inquiry no later than August 6, 2003.

¹ The application was submitted pursuant to Sections 214 and 310 of the Communications Act of 1934. 47 U.S.C. §§ 214, 310.

² *Id.* § 310(d).

³ *Id.* § 308(b); *see also* 47 C.F.R. § 1.65.

⁴ *See News Corporation, General Motors Corporation, and Hughes Electronics Corporation, Order Adopting Protective Order*, MB Docket No 03-124, DA 03-1761 (rel. May 22, 2003) ("Protective Order").

Your responses should be filed with Marlene H. Dortch, Secretary, FCC, under reference number MB Docket No. 03-124.⁵ In addition, the Public Notice⁶ and the Protective Order require the submission of multiple copies of all *Ex Parte* and other filings submitted in this proceeding. The Media Bureau also should receive, at a minimum, two copies of all paper filings, including both documents marked "Confidential" and documents marked "For Public Inspection."⁷ These copies are intended for, respectively, Marcia Glauberman and Linda Senecal. For any electronic filings made using the Commission's Electronic Comment Filing System ("ECFS"), parties also should serve the documents via e-mail to Marcia Glauberman, Marcia.Glauberman@fcc.gov and to Linda Senecal, Linda.Senecal@fcc.gov.

If you have any questions regarding this matter, please contact Marcia Glauberman, Media Bureau, at 202-418-7046.

Sincerely,



W. Kenneth Ferree
Chief, Media Bureau

Attachment

⁵ See Protective Order ¶ 3.

⁶ See *General Motors Corporation, Hughes Electronics Corporation, and The News Corporation Limited Seek Approval To Transfer Control of FCC Authorizations and Licenses Held by Hughes Electronics Corporation to The News Corporation Limited*, MB Docket 03-124, Public Notice DA 03-1725 (rel. May 16, 2003) ("Public Notice").

⁷ See Public Notice, pp. 4-5; Protective Order ¶ 3.

ATTACHMENT

Discovery Requests for Gemstar-TV-Guide

1. Identify each video programming network distributed in the U.S. that your company owns, controls, or in which it has an interest and for each such network state, separately for each year from 2000 through the present:

- a. the MVPD systems that distribute the network, and as to each identify:
 - 1) the geographic areas in which it distributes the network,
 - 2) the date when the network was first carried,
 - 3) all periods of time in which the MVPD's right to carry the network lapsed,
 - 4) the date of expiration of the contract under which the network is currently distributed,
 - 5) the number of subscribers to that MVPD who received the network,
 - 6) total revenues received by the company from the MVPD provider in exchange for distribution of the network and total revenue categorized by subscription fees, launch fees, and other sources of revenue (with a brief description).
 - 7) the number of advertising minutes made available for use by the MVPD.
 - 8) incremental cost of distributing the network to the specific MVPD system.
- b. total revenues categorized by:
 - 1) subscription fees,
 - 2) advertising revenues,
 - 3) other sources of revenues (with a description),
- c. for each DMA, the viewer rating and share by:
 - 1) all persons,
 - 2) persons aged 18-34,
 - 3) persons aged 35-49,
 - 4) persons aged 50 or higher.
- d. costs categorized by:
 - 1) total costs
 - 2) total variable costs
 - 3) average total cost
 - 4) average variable cost

2. For each video programming network identified in response to question II.1, state:

- a. the launch date,
- b. the company's cost to develop or launch the network, including a description and quantification of each major category of costs,
- c. the total number of MVPD subscribers who received the network during each year from launch to present,

3. Provide all plans, analyses, assessments or considerations of plans to modify, terminate or enter into new exclusive distribution arrangements for video programming networks, electronic program guides, or interactive program guides produced since January 1, 2000.

4. Identify separately for each electronic program guide and interactive program guide product offered or sold by Gemstar-TV-Guide for each quarter from June 30, 2000, to the present:
 - a. the number of subscribers to MVPD providers carrying the product,
 - b. the number of MVPD subscribers with access to the product,
 - c. the name of all competing electronic and interactive programming guide products and for each, provide:
 - 1) the number of subscribers to MVPD providers carrying the product,
 - 2) the number of MVPD subscribers with access to the product,
 - 3) identify any ownership interests such competing provider has in any MVPD or video programming provider.
 - 4) the source from which the competing provider obtains program listings data.
5. Identify separately for each electronic program guide and interactive program guide product offered or sold by Gemstar-TV-Guide:
 - a. the MVPD systems that currently distribute the products, and as to each identify:
 - 1) the geographic areas in which the product is provided to subscribers,
 - 2) the date when the product was first carried,
 - 3) all periods of time in which the right to carry the product lapsed,
 - 4) the date of expiration of the contract under which the product is distributed,
 - 5) the number of MVPD subscribers,
 6. the number of MVPD subscribers who have access to the product,
 - 7) total revenues received in exchange for distribution of the product and total revenue should be further categorized by subscription fees, launch fees, advertising revenue, and other sources of revenue (with a brief description),
 - 8) the quantity and percentage of advertising made available for sale by the MVPD provider.
 - 9) incremental cost of distributing the network to the specific MVPD system.
 - b. current costs categorized by:
 - 1) total costs
 - 2) total variable costs
 - 3) average total cost
 - 4) average variable cost
6. Identify separately for each granted, pending, or licensed patent used in an electronic program guide or interactive program guide product sold, or under development, by Gemstar-TV-Guide:
 - a. the owner,
 - b. all known licensees,
 - c. the status and expiration date of the patent,
 - d. the products that use the patent,
 - e. a description of any litigation, past or present, involving the patent, including a description of the outcome or current status of the litigation.
7. Provide all surveys, studies, analyses, and other documents produced since January 1, 2001 regarding consumer usage and attitudes toward electronic and interactive program guides and substitution between these products and alternatives, including but not limited to, newspaper, magazine, and internet-based program schedules and information.

8. Identify all competing producers of program listings data, and for each state:
 - a. the share of the competing producer of program listings data in:
 - 1) printed program listings
 - 2) program listings delivered via electronic program guides
 - 3) program listings delivered via interactive program guides
 - b. the differences between the competing program listings data and Gemstar-TV Guide program listings data.
9. Provide all surveys, studies, analyses, and other documents produced since January 1, 2001 regarding consumer usage and attitudes toward electronic and interactive program guides and substitution between these products and alternatives, including but not limited to, newspaper, magazine, and internet-based program schedules and information.

Note: To the extent available, responses to questions I.1, I.2, I.4, I.5, and I.6 should be provided in electronic form as well as hard copy.

Definitions

For purposes of responding to these requests,

1. the phrase "Gemstar-TV Guide" means Gemstar-TV Guide International, Inc., its subsidiaries and any affiliate in which it or a subsidiary owns a 10% or greater interest.
2. The term "MVPD" means, and information shall be provided separately for:
 - a. the local distribution of video programming through terrestrial-based cable transmission facilities by a cable operator or broadband service provider,
 - b. direct broadcast satellite and direct-to-home services that transmit video programming directly from one or more satellites to subscribers,
 - c. The local distribution or provision of video programming through any other means including, but not limited to MMDS, SMATV, OVS, and facilities of common carrier telephone companies or their affiliates.
3. The phrase "video programming" means all services, channels, or networks (including interactive capabilities) delivered downstream, and where applicable, upstream, via satellite, coaxial cable, fiber optic transmission, terrestrial microwave, or other distribution technology to and from end-user customers and subscribers whether in analog or digital format and information shall be provided separately for:
 - a. the delivery or sale of video programming to MVPD providers,
 - b. the acquisition or purchase of video programming by MVPD providers,
 - c. the distribution of broadcast TV signals to MVPD providers for retransmission to their subscribers pursuant to a retransmission consent or must-carry election by the broadcaster.

4. The phrase "MVPD system" means the area served by a single headend belonging to a wireline MVPD provider such as, but not limited to, a cable system, open video system, or broadband service provider.

5. The phrase "interactive program guide" means an on-screen listing of television program information with interactive functions that enable viewers to navigate through television programming schedules and/or select programming services. An example of this product would be the TV Guide Interactive product.

6. The phrase "electronic program guide" means an on-screen listing of television program information that lacks interactive functionality. An example of this product would be the scrolling program guide of the TV Guide Channel network.

7. The phrase "program listings data" means a collection of information on the time, channel, duration, and/or content of video programming.

8. The phrase "surveys, studies, analyses, and other documents" means final and draft plans, reports, and other such documents, but not informal discussions and comments such as e-mails and notes.